



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

CHARLES RAY POWELL,
Plaintiff,

vs.

MEDIA GENERAL OPERATIONS, INC.,
Defendant.

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CIVIL ACTION NO. 7:10-03170-HFF -KFM

ORDER

This case was removed to the Court as a diversity action. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Defendant's first motion to dismiss (doc. 7) be found moot and Defendant's second motion to dismiss (doc. 16) be granted in part and denied in part. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on April 26, 2011, Defendant and Plaintiff filed their objections on May 16, 2011, Defendant filed its reply to Plaintiff's objections on May 23, 2011, and Plaintiff filed his reply to Defendant's objections on June 10, 2011.

The Court has reviewed all of these submissions but finds that the parties have generally reargued positions that were previously considered by the Magistrate Judge. Thus, inasmuch as the Court finds the discussion and analysis contained in the Magistrate Judge's Report to be correct, there is no need for the Court to rewrite here what the Magistrate Judge has already written there.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules the objections, adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that Defendant's first motion to dismiss (doc. 7) is found to be **MOOT** and Defendant's second motion to dismiss (doc. 16) is **GRANTED** in part and **DENIED** in part, as set forth in the Report.

IT IS SO ORDERED.

Signed this 28th day of September , 2011, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE